

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2003-516

October 21, 2004

PUBLIC UTILITIES COMMISSION
Investigation Into and Possible Redesign of
Investor-Owned T&D Utilities' Rates
Related to Conservation Expenses

ORDER

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

We decide that two special contract customers of Central Maine Power Company (CMP), who do not pay average rates sufficient to cover both their transmission rates plus the DSM mil rate (1.5 mils/kWh), are eligible to participate in the full range of conservation programs for which these customers are otherwise eligible.

II. BACKGROUND

On July 23, 2003, the Commission opened this investigation into the rate design of transmission and distribution (T&D) utilities as it relates to energy conservation-related expenses. The central issue in the investigation was whether all conservation-related costs were allocated to the distribution revenue requirement when the rates of CMP, Bangor Hydro-Electric Company (BHE) and Maine Public Service Company (MPS) were unbundled into separate distribution, transmission and stranded cost revenue requirements. In other words, the Commission sought to determine whether transmission and sub-transmission level customers, who do not pay for distribution-related costs, paid for conservation-related expenses in their rates.

On May 26, 2004, CMP, BHE, MPS, the Office of the Public Advocate (OPA) and the Industrial Energy Consumers Group (IECG) (collectively the Stipulating Parties) filed a Stipulation in order to settle most of the issues raised in this investigation. In the Stipulation, the Stipulating Parties agreed that for revenue accounting purposes, CMP, BHE and MPS allocated all conservation-related costs to the distribution revenue requirement in rate proceedings since, and including, the proceedings establishing unbundled rates that became effective March 1, 2000. The parties also agreed to redesign rates in such a way as to recover conservation-related costs from all customers, including transmission level customers, without increasing delivery rates for any customer class. In these redesigned rates, conservation-related costs are to be recovered from all customer classes through a single, uniform "DSM mil rate." The Stipulating Parties also agreed that customers that pay Maine jurisdictional rates per kWh equal to or greater than the DSM mil rate should be allowed to fully participate in energy conservation programs offered by the Commission.

The Stipulating Parties stated that the combined distribution and stranded cost portions of the contract price for two CMP special contract customers, as demonstrated on Confidential attachment 2 to the Stipulation,¹ are not high enough to cover the CMP DSM rate of \$0.001523/kWh. As to the two CMP special contract customers, the Stipulation left two issues to the Commission:

The Parties have not agreed upon the extent to which that is true [that such customers do not pay for conservation expenses], or whether, if true, such customers may participate in energy conservation programs offered by the Commission. The Parties have agreed that the Commission should decide, as part of its final order in this proceeding, after notice to the affected customers and briefing by the Parties, whether or not these two customers should participate or to what degree they should participate, in energy conservation programs.

The OPA, CMP and the IECG filed briefs on whether the two CMP customers should participate in energy conservation programs. The OPA recommends that the Commission allow the two customers to participate in Efficiency Maine Programs.

CMP points out that the Conservation Act (35-A M.R.S.A. § 3211-A(3)) directs the Commission “to implement the delivery of conservation programs in all regions of the state on an equitable basis and to citizens of all income levels.” In CMP’s view, it is equitable to allow all customers, including these two special contract customers, to participate in programs designed to improve overall efficiency of electricity use in Maine. Moreover, CMP asserts that it would be inequitable to exclude these two customers because they entered into special rate contracts before the new methodology for recovering energy conservation costs was implemented.

The IECG also urges the Commission to permit the two customers to participate in the full range of conservation programs. The IECG cites the Conservation Act, that directs the Commission:

To the greatest extent practicable, apportion remaining available funds among customer groups...in a manner that allows *all other customers* to have a reasonable opportunity to participate in one or more conservation programs.

35-A M.R.S.A. § 3211-A (2)(B)(3) (emphasis added). The IECG asserts that the Commission cannot deny these two customers an opportunity to participate because of the stipulated manner that rates have been unbundled for generation, transmission and distribution services since Electric Restructuring.

¹ The attachment is confidential because it includes customer-specific information, such as electricity usage, in calculating average distribution, transmission and stranded cost rates for all special contract customers.

III. DECISION

We agree with the conclusion reached by all three of the parties that submitted briefs. The two CMP special contract customers will be permitted the opportunity to participate in the full range of conservation programs available to them.

As a general matter, all customers should be eligible to participate in any appropriate conservation program. We agree that it would be inequitable to deviate from this principle and to exclude the two CMP special contract customers from program participation when they entered into special rate contracts before the Commission decided conservation funding and implemented a new methodology for recovering conservation-related costs.

We mentioned in footnote 4 to the June 10 *Order Approving Partial Stipulation* that it may be an issue in the future, as to whether a utility's marginal cost of service should include the utility's transmission rate and the DSM mil rate. To the extent that marginal cost floors do include transmission and DSM mil rates, the equity issue presented by the two CMP special contracts will not arise again in the future. Therefore, we direct CMP to address the question of whether marginal cost floors should include its transmission and DSM mil rates, in its next annual filing made pursuant to its currently approved Alternative Rate Plan.

With today's order, this investigation is closed.

Dated at Augusta, Maine, this 21st day of October, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.